

***What Every Member of the  
Trade Community Should Know About:***

# *Mushrooms*



A Basic Level  
Informed Compliance Publication of the  
U.S. Customs Service

October, 1996

## PREFACE

On December 8, 1993, Title VI of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), which is also known as the Customs Modernization Act or “Mod Act,” became effective. These provisions amended many sections of the Tariff Act of 1930 and related laws. Two new concepts which emerge from the Mod Act are “*informed compliance*” and “*shared responsibility*.” These concepts are premised on the idea that in order to maximize voluntary compliance with Customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the Mod Act imposes a greater obligation on Customs to provide the public with improved information concerning the trade community's responsibilities and rights under the Customs and related laws. In addition, both the trade and Customs share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act, as amended, (19 U.S.C. §1484) the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and provide any other information necessary to enable Customs to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met. The Customs Service is then responsible for fixing the final classification and value of the merchandise. The failure of an importer of record to exercise reasonable care may lead to delay in the release of merchandise or the imposition of penalties.

This office has been given a major role in meeting Customs informed compliance responsibilities. In order to provide information to the public, Customs intends to issue a series of informed compliance publications, and possibly cd-roms and videos, on topics such as value, classification, entry procedures, determination of country of origin, marking requirements, intellectual property rights, recordkeeping, drawback, penalties and liquidated damages.

The National Commodity Specialists Division of the Office of Regulations and Rulings has prepared this publication on Mushrooms, as one in a series. It is hoped that this material, together with seminars and increased access to Customs rulings, will help the trade community in improving voluntary compliance with the Customs laws.

The information provided in this publication is for general information purposes only. Recognizing that many complicated factors may be involved in customs classification issues, an importer may wish to obtain a ruling under Customs Regulations, 19 C.F.R. Part 177, or obtain advice from an expert (such as a licensed Customs Broker, attorney or consultant) who specializes in Customs matters. Reliance solely on the general information in this pamphlet may not be considered reasonable care.

Comments and suggestions are welcomed, and should be addressed to the Assistant Commissioner at the Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue, NW (Franklin Ct. Bldg), Washington, DC 20229.

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## **I. Background**

In March of 1993, the Agricultural Marketing Service (AMS) of the USDA entered into an agreement whereby the U.S. Customs Service is required to collect a mushroom fee of \$0.0045/pound or \$0.009921 per kilogram for fresh mushrooms entered or withdrawn from warehouse on or after February 1, 1996. The Mushroom Promotion, Research and Consumer Information Act of 1990 (7 U.S.C. 6101-6112), provides the authority for the Mushroom Council to periodically increase the rate of assessment to fund the program.

## **II. Types**

There are more than 38,000 kinds of mushrooms in the world and vary considerably in color, size and shape. The main parts of a mushroom include the stem and cap. (See appendix A) Stem sizes vary from short and thick to long and thin. The cap's texture can be smooth, pitted, honeycombed or ruffled. Flavors range from bland to rich, to nutty and earthy<sup>1</sup>. The cultivated *Agaricus* (common button) mushroom, having a mild, earthy flavor, with cap ranges in size from ½ to 3 inches in diameter and either a white or tan color, is commonly found in most grocery and supermarket stores. Mushrooms are available fresh, in bulk, and in various retail sizes. Canned mushrooms are available in several forms including whole, chopped, sliced and caps only. Some mushrooms, usually the imported varieties, are available dried either whole or in slices, bits or pieces.<sup>2</sup>

Specialty or exotic varieties of mushrooms are commercially grown in the United States as well as imported. A specialty grower is one having at least 200 natural wood logs in production or a commercial indoor growing area<sup>3</sup>. Specialty mushrooms include Shiitake (*Lentinus edodes*), Maitake (*Grifola frondosa*), Nameko (*Pholiota nameko*), Enoki (*Flammulina velutipes*), Pom Pom (*Hericium erinaceus*), Oyster (*Pleurotus spp.*), Portabella, Crimini (*Agaricus Bisporus*), and others. Production has steadily increased over the past several years. Shiitake, Portabella, and Oyster are the most popular, followed by the Enoki, Maitake, Nameko and Pom Pom<sup>4</sup>.

The volume of sales for commercially grown specialty mushrooms decreased five percent since 1994 to 7.99 million pounds. The value of the sales has decreased two percent from 1994 to \$28.3 million. Shiitake mushroom sales reached 5.25 million pounds. Oyster mushroom sales totaled 1.71 million pounds. All other specialty mushroom sales totaled 1.04 million pounds.

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<sup>1</sup> Coyle, L.P., Jr., *World Encyclopedia of Food*, Facts on File, New York, N.Y., 1982, pp. 414-415.

<sup>2</sup> *Ibid.*

<sup>3</sup> United States Department of Agriculture, National Agricultural Statistics Service, Washington D.C., *Mushrooms*, August 1995.

<sup>4</sup> Molin, J., "Specialty Mushrooms: Yesterday, Today, & Tomorrow", *Mushroom News*, February 1995, p.10.

Specialty mushrooms have proven to be a very price sensitive crop. The average price received for Shiitake and Oyster mushrooms by growers increased on average of 13 cents per pound. In general, prices for the 1994-1995 growing season ranged from \$0.13 to \$3.54 per pound<sup>5</sup>.

### **III. Imports**

Mushrooms are imported from as many as thirty five countries. The majority of imports come from China, Hong Kong, Italy, Japan and Taiwan. Mushrooms that have been prepared or preserved otherwise than by vinegar or acetic acid, in containers each holding more than 225 grams, other than whole (including buttons) and sliced, comprise the largest segment with 34,136,483 kilograms imported. The dutiable value totaled \$62,780,115 with a calculated duty due of \$8,272,965. Import penetration is slowing but still remains high. According to U.S. Customs figures, total mushroom imports for 1995 reached 78,749,806 kilograms. The dutiable value was calculated at \$186,853,924 with \$21,832,768 collected as revenue<sup>6</sup>. (See Appendix B(a)). From 1994 to 1995 there has been an import increase of 10,155,258 kilograms, a total dutiable value increase of \$25,209,286, and an increase of \$2,011,353 in the amount of calculated duty<sup>7</sup>. (See figure 1 and also Appendix B(b)).

Figure 1

	Imports (kgs)	Vessel Value(\$)	Air Value (\$)
1994	68,594,548	147,542,938	2,039,874
1995	78,749,806	180,761,906	2,365,925

	Total Value	Dutiable Value (\$)	Calculated Duty (\$)
1994	149,582,812	161,644,638	19,821,415
1995	183,111,226	186,853,924	21,832,768

For a breakdown of source countries by Harmonized Tariff Schedule number see Appendix C.

### **IV. Classification**

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<sup>5</sup> USDA

<sup>6</sup> “U.S. Imports of merchandise International Harmonized System Commodity Classification”, U.S. Department of Commerce, Bureau of the Census, Data Services Division, Washington D.C., February 1995.

<sup>7</sup> *Ibid.*

The Harmonized Tariff Schedule of the United States (1996) provides for **fresh or chilled mushrooms** under subheading 0709.51.0000 HTS. **Frozen mushrooms**, uncooked or cooked by steaming or boiling in water, are provided for under 0710.80.2000 HTS. Mushrooms that have been **provisionally preserved**, for example, by sulfur dioxide gas, in brine, in sulfur water or in other preservative solutions, but unsuitable in that state for immediate consumption are provided under 0711.90.4000 HTS. Mushrooms that have been **dried**, whole, cut, sliced, broken or in powder, **but not further prepared**, are classified under 0712.30.1000 HTS, if they have been **air or sun dried**. Mushrooms that have been **dried by other means**, (e.g. freeze-dried) are provided for under 0712.30.20000 HTS. Mushrooms that have been **prepared or preserved by vinegar or acetic acid** are classified under 2001.90.3900 HTS. **Straw mushrooms** that have been **prepared or preserved otherwise than vinegar or acetic acid** are provided under 2003.10.0009 HTS. All other mushrooms that have been **prepared or preserved otherwise than vinegar or acetic acid** are provided for according to container size and form under 2003.10.0027, 2003.10.0031, 2003.10.0037, 2003.10.0043, 2003.10.0047, and 2003.10.0053 HTS<sup>8</sup>. The fresh mushrooms classified under 0709.51.0000 are subject to the above mentioned mushroom fee.

## **V. Marking**

Section 1970(b) of the Omnibus Trade and Competitiveness Act of 1988, Pub. L. No. 100-418, provides:

Imported preserved mushrooms shall not be considered to be in compliance with section 304 of the Tariff Act of 1930 (19 U.S.C. §1304) or any other law relating to the marking of imported articles unless the containers thereof indicate in English the country in which the mushrooms were grown.<sup>9</sup>

Subsequent packing or preserving (i.e. canning) is not sufficient to change the country of origin. The term “product of ...” may only be used to refer to the country in which the mushrooms were grown. (See HRL 734281 Feb. 13, 1992) Acceptable country of origin marking includes “grown in ...” and “product of ...”. However, the “product of ...” phrase cannot be used when referring to the country in which the mushrooms have been merely packed or canned.

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<sup>8</sup> Harmonized Tariff Schedule of the United States, (1996), Washington DC United States International Trade Commission, 1996.

<sup>9</sup> “Customs Bulletin and Decisions”, Vol. 26, No.21, Washington DC, May 20, 1992.

### **XIII. Bibliography**

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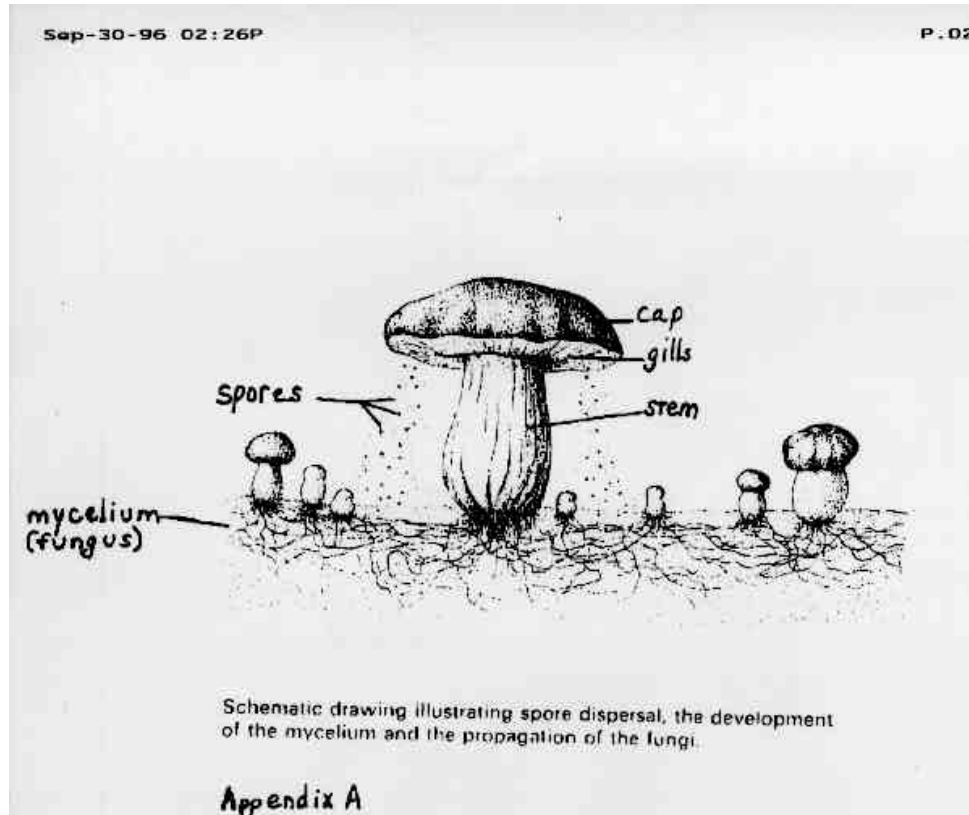
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## Appendix A





## APPENDIX B (a)

U.S. Imports of Mushrooms For 1995								
Description	HTS#	General Imports /Kgs	Vessel/ Value \$	Air/ Value \$	HTS#	Total value	Dutiable Value \$	Calculated Duty
fresh/chilled	0709.51.0000	2,473,242	\$27,857	\$831,793	709510000	\$859,650	\$5,556,314	\$656,231
cooked/uncooked/frozen	0710.80.2000	736,719	\$1,963,296	\$81,521	710802000	\$2,044,817	\$1,897,743	\$234,237
provisionally preserved	0711.90.4000	278,873	\$542,457	\$0	711904000	\$542,457	\$533,639	\$68,929
air or sun-dried	0712.30.1000	1,513,844	\$13,334,635	\$986,646	712301000	\$14,321,281	\$13,742,417	\$531,620
dried nesoi	0712.30.2000	628,429	\$6,226,021	\$449,360	712302000	\$6,675,381	\$6,769,933	\$273,354
veges., prep/pres by vinegar/acetic acid, other *	2001.90.3900	N/A	N/A	N/A	2001903900	N/A	N/A	N/A
straw mush prep/pres ex by vinegar/acetic acid	2003.10.0009	5,830,914	\$11,381,262	\$0	2003100009	\$11,381,262	\$11,394,862	\$1,519,868
whole/button/ prep/pres/nesoi ctrs not over 225 g	2003.10.0027	1,875,396	\$5,691,432	\$0	2003100027	\$5,691,432	\$5,711,916	\$678,221
sliced prep/pres nesoi ctrs not ov 225g	2003.10.0031	6,115,405	\$18,476,128	\$0	2003100031	\$18,476,128	\$18,007,061	\$2,178,946
nesoi prep/pres nesoi ctrs not ov 225g	2003.10.0037	20,894,622	\$45,970,786	\$0	2003100037	\$45,970,786	\$50,437,031	\$6,147,691
whole/button prep/pres nesoi ctrs ov 225g	2003.10.0043	1,215,093	\$3,213,005	\$0	2003100043	\$3,213,005	\$3,206,362	\$396,588
sliced prep/pres nesoi ctrs over 225g	2003.10.0047	3,050,786	\$6,938,846	\$0	2003100047	\$6,938,846	\$6,816,531	\$874,118
nesoi prep/pres nesoi ctrs over 225g	2003.10.0053	34,136,483	\$66,996,181	\$16,605	2003100053	\$66,996,181	\$62,780,115	\$8,272,965
Totals 1995								
*Includes vegetables other than mushrooms		78,749,806	\$180,761,906	\$2,365,925		\$183,111,226	\$186,853,924	\$21,832,768

## Appendix B(b)

U.S. Imports of Mushrooms For 1994								
Description	HTS#	General Imports/ Kgs	Vessel/ Value \$	Air/ Value \$	HTS#	Total Value	Dutiable Value \$	Calculated Duty
fresh/chilled	0710.95.1 000	1,677,62 3	\$2,096	\$389,235	709510000	\$391,331	\$3,535,88 0	\$493,662
cooked/uncooked/fr ozen	0710.80.2 000	718,578	\$1,658,424	\$121,505	710802000	\$1,779,92 9	\$1,828,42 8	\$235,789
provisionally preserved	0711.90.4 000	74,112	\$126,750	\$1,374	711904000	\$128,124	\$157,904	\$22,229
air or sun-dried	0712.30.1 000	1,073,77 2	\$9,063,435	\$1,061,146	712301000	\$10,124,5 81	\$9,031,99 7	\$386,260
dried nesoi	0712.30.2 000	684,390	\$7,641,111	\$435,152	712302000	\$8,076,26 3	\$8,261,15 6	\$348,260
veges, prep/pres by vinegar/acetic acid, other *	2001.90.3 900	N/A	N/A	N/A	200190390 0	N/A	N/A	N/A
straw mush prep/pres ex by vinegar/acetic acid	2003.10.0 009	4,996,11 6	\$10,195,831	\$0	200310000 9	\$10,195,8 31	\$10,132,7 14	\$1,363,854
whole/button/ prep/pres/nesoi ctrs not over 225 g	2003.10.0 027	1,551,10 7	\$4,461,966	\$0	200310002 7	\$4,461,96 6	\$4,335,74 4	\$538,396
sliced prep/pres nesoi ctrs not ov 225g	2003.10.0 031	4,520,02 7	\$12,754,290	\$5,328	200310003 1	\$12,759,6 18	\$12,342,4 56	\$1,545,635
nesoi prep/pres nesoi ctrs not ov 225g	2003.10.0 037	16,962,6 46	\$33,483,091	\$3,414	200310003 7	\$33,486,5 05	\$41,296,6 87	\$5,269,300
whole/button prep/pres nesoi ctrs ov 225g	2003.10.0 043	1,023,60 8	\$2,472,302	\$7,741	200310004 3	\$2,480,04 3	\$2,445,51 3	\$316,315
sliced prep/pres nesoi ctrs over 225g	2003.10.0 047	3,928,11 4	\$7,385,723	\$2,800	200310004 7	\$7,388,52 3	\$8,183,87 0	\$1,079,752
nesoi prep/pres nesoi ctrs over 225g	2003.10.0 053	31,384,4 55	\$58,297,919	\$12,179	200310005 3	\$58,310,0 98	\$60,092,2 89	\$8,221,963
Totals 1994 *Includes vegetables other than mushrooms		68,594,548	\$147,542,938	\$2,039,874		\$149,582,81 2	\$161,644,63 8	\$19,821,415

# Appendix C

Breakdown of Source Countries by Harmonized Tariff Schedule Number																																			
S - Five or Less Importers    M - More than Five Importers																																			
	AU	BE	BR	CA	CH	CL	CN	CO	DE	EC	ES	FI	FR	HK	HT	ID	IE	IN	IT	JP	KR	MX	MY	NL	PE	PL	PK	SE	SI	SG	TH	TR	TW	ZA	
0709.51.0000		S		M	S		M						S	S	S		S	S	M	M	S	S		S	S			S				S	S	S	
0710.80.2000	S			S			M		S		S		S						M	M								S					S	S	
0711.90.4000				S			M					S	S	S					S	S		S									S		S		
0712.30.1000			S	M	M	M	M		M	S			M	M	S			S	M	M	M		S	S			S		S		S		M		
0712.30.2000				S	S		M		M				M	M					M	M	M					S					S		M		
2003.10.0009							S							S		M		S					S							S	M		M		
2003.10.0027				S			M				S		M	M		M			S	M			S	M						M		M			
2003.10.0031							M	S					S	S		M			S	S		S	S	M						S		S			
2003.10.0037					S	S	M	M			S	S	S			M			M	M													M		
2003.10.0043							M													M											M		M		
2003.10.0047							M							M																				M	
2003.10.0053							S	M			M			M		M		S	M	S				S											

## **Additional Information**

### **Customs Electronic Bulletin Board**

The Customs Electronic Bulletin Board (CEBB) is an automated system which provides the entire trade community with current, relevant information regarding Customs operations and items of special interest. It was established as another effort to promote the Customs Service as “trade friendly” within the importing and exporting community. The CEBB posts timely information including proposed regulations, news releases, Customs publications and notices, etc which may be “downloaded” to your own PC. The Customs Service does not charge the public to use the CEBB. You only pay telephone charges. To use the CEBB, you must have a personal computer with a modem. The CEBB supports modem speeds from 2400 to 28,800 baud. Set up your terminal as ANSI, set databits to 8, set parity to N and stopbits to 1. Dial (703) 440-6155 and log on with your name and choose a password. After a few questions, you are set to get up-to-date information from Customs. If you have any questions about the CEBB, call (703) 440-6236.

### **The Internet**

The Customs home page on the Internet’s World Wide Web --which began public operation on August 1, 1996-- will also provide the entire trade community with current, relevant information regarding Customs operations and items of special interest. It was established as another effort to promote the Customs Service as “trade friendly” within the importing and exporting community. The home page will post timely information including proposed regulations, news releases, Customs publications and notices, *etc.*, which may be printed or “downloaded” to your own PC. Not all features may be available in the beginning. The Customs Service does not charge the public for this service, although you will need Internet access to use it. The Internet address for Customs home page is <http://www.customs.ustreas.gov>.

### **Customs Regulations**

The current edition of *Customs Regulations of the United States*, in loose-leaf format, is available by subscription from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. The bound 1996 Edition of Title 19, *Code of Federal Regulations*, which incorporates all changes to the *Customs Regulations* from April, 1995 through March, 1996 is also available for sale from the same address. All proposed and final regulations are published in the *Federal Register* which is published daily by the Office of the Federal Register, National Archives and Records Administration, and distributed by the Superintendent of Documents. Information on on-line access to the *Federal Register* may be obtained by calling (202) 512-1530 between 7 a.m. and 5 p.m. Eastern time. These notices are also published in the weekly *Customs Bulletin* described below.

### **Customs Bulletin**

The *Customs Bulletin and Decisions* (“*Customs Bulletin*”) is a weekly publication which

contains decisions, rulings, regulatory proposals, notices and other information of interest to the trade community. It also contains decisions issued by the U. S. Court of International Trade and Customs related decisions of the U. S. Court of Appeals for the Federal Circuit. Bound volumes are issued annually. The Customs Bulletin is available for sale from the Superintendent of Documents.

## **Video Tapes**

The U. S. Customs Service has prepared a two hour video tape in VHS format to assist Customs officers and members of the public in understanding the new ***Rules of Origin for Textiles and Apparel Products*** which became effective on July 1, 1996. Copies of this tape are available from many trade organizations, customs brokers, consultants and law firms. The tape may also be purchased for \$20.00 (U.S. funds) directly from the Customs Service. If you require further information, or would like to purchase one or more tapes, please forward your written request to: U.S. Customs Service, Office of Regulations and Rulings, 1301 Constitution Avenue, NW, Franklin Court, Washington, DC 20229, Attn: Operational Oversight Division. Orders must be accompanied by a check or money order drawn on a U.S. financial institution and made payable to U.S. Customs Service.

## **Informed Compliance Publications**

The U. S. Customs Service has also prepared other Informed Compliance publications in the *What Every Member of the Trade Community Should Know About:* series which, are available from the Customs Electronic Bulletin Board and the Customs Home Page (see above). As of the date of this publication, the following booklets were available: **NAFTA: for Textiles and Textile Articles** (May, 1996), **Raw Cotton: Tariff Classification and Import Quotas** (May, 1996), **Fibers & Yarns — Construction and Classification under the Harmonized Tariff System** (September, 1996), **Customs Value** (June, 1996). Check the Customs Electronic Bulletin Board and the Customs Home Page for more recent publications.

## **Other Value Publications**

*Customs Valuation under the Trade Agreements Act of 1979* is a 96-page book containing a detailed narrative description of the customs valuation system, the customs valuation title of the Trade Agreements Act (§402 of the Tariff Act of 1930, as amended by the Trade Agreements Act of 1979 (19 U.S.C. §1401a)), the Statement of Administrative Action which was sent to the U.S. Congress in conjunction with the TAA, regulations (19 C.F.R. §§152.000-152.108) implementing the valuation system (a few sections of the regulations have been amended subsequent to the publication of the book) and questions and answers concerning the valuation system. A copy may be obtained from the U.S. Customs Service, Office of Regulations and Rulings, Value Branch, 1301 Constitution Avenue, N.W., Franklin Court Building, Washington, D.C. 20229.

*Customs Valuation Encyclopedia* (with updates) is comprised of relevant statutory provisions, Customs Regulations implementing the statute, portions of the Customs Valuation Code, judicial precedent, and administrative rulings involving application of valuation law. A copy may be purchased for a nominal charge from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7054.

Additional information may be obtained from Customs ports of entry. Please consult your telephone directory for a Customs office near you. The listing will be found under U.S. Government, Treasury Department.

The information provided in this publication is for general information purposes only. Recognizing that many complicated factors may be involved in customs classification issues, an importer may wish to obtain a ruling under Customs Regulations, 19 C.F.R. Part 177, or obtain advice from an expert (such as a licensed Customs Broker, attorney or consultant) who specializes in Customs matters. Reliance solely on the general information in this pamphlet may not be considered reasonable care.